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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,998	09/07/2006	Christopher Robert Murray Mitchell	A-10188	6780
<div>7590 07/25/2008</div> <div>Martin P Hoffman Hoffman Wasson & Gitler 2461 South Clark Street Crystal Center 2 Suite 522 Arlington, VA 22202</div>				
EXAMINER				
CONLEY, FREDRICK C				
ART UNIT		PAPER NUMBER		
3673				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/591,998

Applicant(s)MITCHELL, CHRISTOPHER
ROBERT MURRAY**Examiner**

FREDRICK C. CONLEY

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31, 36, 38, 39, 41-45, 47, 48 and 50-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 54-59 is/are allowed.
- 6) ☒ Claim(s) 31, 36, 38, 39, 41-45, 47 and 48 is/are rejected.
- 7) ☒ Claim(s) 50-53 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 April 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31, 36, 38, and 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR. Pat. No. 2,317,149 to Bachorek in view of U.S. Pat. No. 6,971,127 to Richards.

Claims 31, 36, and 42, Bachorek discloses an apparatus for moving or rocking an infant enclosure of the type having at least three legs by which said enclosure is normally supported on an underlying surface, said apparatus comprising a plurality of leg supports (15,15',15") comprising springs associated with respective said legs and positioned in use between said legs and said surface, said leg supports including resilient support means providing independent and resilient support for each said leg and a motion imparting means. Bachorek fails to disclose one of said leg supports including motion imparting means for causing when actuated repeated resilient compression of said resilient support means of said leg support for imparting a substantially vertical oscillating or reciprocating motion to a first leg of said enclosure supported on said one leg support, and the resilient support means of said other leg supports causing movement of the other legs of said enclosure upon motion being imparted to said first leg of said enclosure by said motion imparting means of said one

leg support to continue motion of said enclosure, and means for selectively actuating said motion imparting means. Richards discloses a motion imparting means and means defined by a control system 82 to selectively actuate a motion imparting means in a rocking apparatus having at least one active support means (col. 1-2 lines 57-68 & 1-24). It would have been obvious for one having ordinary skill at the time of the invention to employ a means to selectively actuate said motion imparting means as taught by Richards in order to control movement of the motion imparting means (col. 2 lines 13-14).

Claim 38, Bachorek, as modified, discloses the apparatus as claimed in claim 31 wherein said motion imparting means of Richards comprises alternative actuators such as a vibratory actuator defined by a pneumatic cylinder or an actuator having a rotatable actuator member defined by a lift screw (col. 8 lines 40-42).

Claim 39, Bachorek, as modified, discloses the apparatus as claimed in claim 37 wherein said actuator of Richards includes an actuator member (12,14) adapted to be selectively reciprocated or oscillated to impart a vertical or substantially vertical reciprocating or oscillating motion to the leg of the enclosure associated with the at least one support means wherein said actuator member is oriented in use substantially vertically such as to induce at least a vertical reciprocation or oscillation of the leg of the enclosure associated with the at least one support means.

Claim 41, Bachorek, as modified, discloses the apparatus as claimed in claim 39, but fails to disclose that the actuator is a solenoid wherein said actuator member comprises the solenoid coil of the actuator. Richards discloses employing alternative actuators and it is considered an obvious modification to merely select from a plethora of equivalent actuators. Therefore, it would have been obvious for one having ordinary skill in the art at the time of the invention to employ a solenoid in order to provide an alternative actuator for the rocking apparatus.

Claims 43-45 and 47-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR. Pat. No. 2,317,149 to Bachorek in view of U.S. Pat. No. 6,971,127 to Richards as applied to claim 42 above, and further in view of U.S. Pat. No. 4,793,010 to Gross et al.

Claims 43-44 and 48 Bachorek discloses all of the Applicant's claimed limitations except for having a socket mounted to the resilient support means. Gross discloses a holder 42 serving as a socket mounted to a support means to receive a leg of a baby bed. It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a holder as taught by in order to support the leg for movement (col. 3 lines 4-7).

Claim 45, Bachorek discloses the apparatus as claimed in claim 44 wherein Richards further discloses that each said support module comprises a housing and wherein said resilient means comprises a compression spring housed in said housing.

Claim 47, Bachorek, as modified, discloses the apparatus as claimed in claim 40, but fails to disclose that the actuator is a solenoid wherein said actuator member comprises the solenoid coil of the actuator. Richards discloses employing alternative actuators and it is considered an obvious modification to merely select from a plethora of equivalent actuators. Therefore, it would have been obvious for one having ordinary skill in the art at the time of the invention to employ a solenoid in order to provide an alternative actuator for the rocking apparatus.

Allowable Subject Matter

Claims 50-53 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 54-59 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 31, 36, 38-39, 41-5, and 47-48 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C. CONLEY whose telephone number is (571)272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PATRICIA L. ENGLE can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/FREDRICK C CONLEY/
Primary Examiner, Art Unit 3673